

## **ARTICLE 69-09**

### **PUBLIC UTILITY DIVISION**

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### **CHAPTER 69-09-01 STANDARDS OF SERVICE - GAS**

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**69-09-01-01. Definitions.** As used in this article:

1. "Commission" means the public service commission of the state of North Dakota.
2. "Customer" means any person, firm, corporation, municipality, or other political subdivision of North Dakota supplied by any such utility.
3. "Utility" means public utility.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-02. Heating value.**

1. **Artificial gas.** Each utility furnishing manufactured gas shall supply gas which shall have an average heating value of five hundred twenty-five British thermal units per cubic foot [28.32 liters]; and at no time shall the heating value of the gas at such point be less than five hundred or more than five hundred fifty British thermal units per cubic foot [28.32 liters]; provided, that before the gas utility may lower its present standard, the commission may make an investigation of the operating condition of the plant to determine whether the rates may not be reduced at the same time. The present standards of the gas utility shall not be changed until specifically relieved by the commission. Tests shall be made at least twice a day, Sundays and holidays excepted.

On or before the tenth day of each month, the above daily heating value averages for the preceding calendar month shall be reported to the commission, together with full explanations of any abnormal operations.

2. **Natural gas.** Each utility furnishing natural gas shall determine the heating value of the gas at regular intervals of not less than thirty days and shall file with the commission, monthly, a report of these tests.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-03. Calorimeter equipment.** Each utility shall equip itself with a complete standard calorimeter outfit. This equipment shall be used to test the heating value of gas supplied. The accuracy of all calorimeters, as well as the method of making heating value tests, shall be subject to the approval of the commission.

The heating value tests should be distributed with relation to the time of day in such a manner that the number of tests made will be proportional to the average rate of "sendout" at that time. At least two tests shall be made each day.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-04. Purity of gas.**

1. Total sulfur. Manufactured gas distributed in this state shall in no case contain more than thirty grains [1.94 grams] of total sulfur per one hundred cubic feet [2.83 cubic meters] unless specific relief is granted by the commission.
2. Hydrogen sulfide. In no case shall the manufactured or diluted natural gas sold for lighting or heating contain an amount of hydrogen sulfide (sulfurated hydrogen) detectable by the following test:

The gas shall be considered to contain no more than a trace of hydrogen sulfide if a strip of white filter paper freshly moistened with a solution containing five percent by weight of lead acetate is not distinctly darker than a second paper freshly moistened with the same solution after the first paper has been exposed to the gas one minute in an apparatus through which the gas is flowing at the rate of approximately five cubic feet [141.58 liters] per hour, the gas not impinging directly from a jet upon the test paper.

3. Each utility furnishing manufactured gas service shall daily test the gas supplied by it for the presence of hydrogen sulfide and shall mark and preserve the test papers for at least ten days.
4. Each utility furnishing undiluted natural gas shall file with the commission a statement showing an analysis of the gas being furnished.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-05. Pressure of gas.**

1. **Maximum and minimum limits.** The pressure of gas supplied by any utility, as measured at the outlet of the service pipe to any customer, or in the case of high pressure systems at the outlet of the house governor, should be maintained as uniform as practicable. For artificial gas service the pressure should never be less than three inches or more than twelve inches of water pressure. For natural gas service the pressure should never be less than three ounces or more than twelve ounces. Customers desiring service at greater than the maximum allowable should request in writing that a higher service be maintained

and shall also pay any additional expense incurred, over and above the regular cost of service at the standard pressure, in providing and maintaining a special service.

2. **Artificial gas.** At any one outlet between the hours of six a.m. and seven p.m. of any one day, the variation of pressure shall not be greater than the following:

Minimum Pressure Maintained	Greatest Variation Permissible
3 inches	2 inches
3-4 inches	2 1/2 inches
4-5 inches	3 inches
5-6 inches	3 1/2 inches
6-8 inches	4 inches

3. **Natural gas.** At any one outlet the variation of pressure shall not be greater than the following:

Established Pressure	Minimum Pressure Allowable	Maximum Pressure Allowable
4 ounces	3 ounces	6 ounces
6 ounces	3 ounces	9 ounces
8 ounces	4 ounces	12 ounces

4. **Variations.** A utility shall not be deemed to have violated this section if it can be shown that the variations occurring in gas pressure were caused by unforeseen demand, temporary conditions beyond the control of the utility, individual customer-owned service lines, or pipelines of such size as to render the maintenance of standard pressure variations impracticable.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-01-06. Pressure recording equipment and records.**

1. Each utility shall be equipped with a sufficient number of portable recording pressure gauges and shall make frequent measurements of the gas pressure variation throughout each separate distribution system. A record shall be kept of the pressure at some point on each system at all times.
2. All pressure charts which have been made shall be filed by the utility for at least two years and shall be sufficiently complete and so arranged

that compliance with the individual requirements of section 69-09-01-05 can be determined easily.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-07. Definition of a cubic foot of gas.** For the purpose of testing the gas under this chapter, a cubic foot of gas shall be taken to be that amount of gas which occupies the volume of one cubic foot [28.3168 liters] when saturated with water vapor at sixty degrees Fahrenheit [15.56 degrees Celsius] and under a pressure equal to that of thirty inches [7.62 centimeters] of mercury at a temperature of thirty-two degrees Fahrenheit [0 degrees Celsius]. For the purpose of measurement of gas to a customer, a cubic foot of gas shall be taken to be that amount of gas which occupies a volume of one cubic foot [28.32 liters] under the conditions existing in such customer's meter as and where installed; provided, however, that when gas is metered at a pressure more than twelve inches [30.48 centimeters] of water column in excess of the prevailing barometric pressure (by agreement with the customer or with the written approval of the commission), the volume of gas metered shall be computed on the basis of the mean pressure in the utility's low-pressure system, or other basis ordered by the commission.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-08. Testing facilities.**

1. Each utility shall, unless specifically excused by the commission, provide such laboratory meter testing equipment and other equipment and facilities as may be necessary to make the tests required of it by this chapter or other orders of the commission. The apparatus and equipment so provided shall be subject to the approval of the commission, and it shall be available at all times for the inspection or use of any member or authorized representative of the commission.
2. Each utility shall make such tests as are prescribed under this chapter with such frequency and in such manner and at such places as are herein provided or as may be approved or ordered by the commission. Unless otherwise directed by the commission, the methods and apparatus recommended by the national bureau of standards in the latest edition of its Circular C48, "Standard Method of Gas Testing", may be used.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-09. Meter prover.** Each utility furnishing metered gas service shall maintain the equipment and facilities necessary for accurately testing all types and sizes of meters employed for the measurement of gas to its customers unless arrangements approved by the commission shall have been made to have such

testing done elsewhere. In general, each utility will be required, as a minimum, to provide and maintain a meter prover of approved type and of a capacity of not less than five cubic feet [141.58 liters] for the testing of the most numerous class of customers' meters. Each meter prover shall be supplied with all accessories needed for accurate meter testing and shall be located in a room suitable for the work to be done, protected from drafts and excessive changes of temperature. The utility shall maintain this equipment in good condition and correct adjustment so that it shall be capable of determining accuracy of any service meter to within one-half of one percent.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-10. Location of meters.** No meter shall be installed in any location where it may be unnecessarily exposed to heat, cold, dampness, or other cause of damage or in any unduly dirty or inaccessible location. Where these conditions cannot be avoided, a location must be chosen that will least affect the meter's accuracy and condition.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-11. Service meters required.**

1. All gas sold by a utility shall be charged for by meter measurements, except that which may be otherwise authorized by the commission.
2. Unless otherwise authorized by the commission, each utility shall provide and install at its own expense and shall continue to own, maintain, and operate all equipment necessary for the regulation and measurement of gas to its customers. Where additional meters are furnished by the utility to be used as submeters, or for the convenience of the customer, a charge for such meters may be made in accordance with a schedule approved by the commission.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-12. Prepayment meters.** No utility shall use prepayment meters except in special cases or for clearly defined special classes of service authorized by the commission.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-13. Gas meter accuracy requirement.**

1. **Installation test.** Every gas service meter, whether new or repaired, or that has been removed from the service for any cause, shall be in good

order and shall be correct to within two percent before being installed for the use of any customer. However, a utility which has less than one thousand customers and which has no facilities for opening meter cases and adjusting the mechanism may put a meter back into service, unless it is found to be in error by more than two percent or appears otherwise to be in poor condition.

2. **Method of testing.** For the purpose of determining compliance with this section, the registration of a displacement meter shall be determined by one test at a rate of flow of approximately one-fifth of the rated capacity of that meter and one test at a rate of flow of approximately the rated capacity of the meter. The tests at the two rates shall agree within two percent. The accuracy of the meter at the lower rate of flow shall be considered as its accuracy in determining compliance with subsection 1 and for the purpose of computing refunds. All tests to determine the accuracy of any gas service meter shall be made with a meter prover, unless, because of the unusual capacity or construction of the meter, such method of test shall be considered impracticable and another method of test shall have been approved by the commission.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-14. Periodic tests.** All service meters shall be tested and adjusted at least once in every eight years, or in accordance with a plan approved by the commission.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-15. Requests and referee tests.**

1. A gas service utility shall test the accuracy of any meter upon request of the customer, shall provide the customer with a report of the test results, and shall keep the complete original test record and a copy of the report on file in the utility's office.
2. A customer may request in writing to the commission that the utility's test be supervised by a commission representative.
3. The customer shall not be charged for the test provided the customer requests no more than one test each twelve-month period, otherwise the utility may charge a tariffed rate. The charge must be waived if the meter error is more than plus or minus two percent.

**History:** Amended effective July 1, 1997.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-01-16. Meter test records.**

1. Each utility shall keep a record of meter tests for at least two years. The record shall show the identification of the meter, reading of the meter before the test, the results of the test, and accuracy after adjustment, if adjustment is made.
2. Each utility shall annually file with the commission a summary report of meter tests made during the year. This report shall show the number of meters tested, the number of meters found to be accurate within the allowable limits, the number of meters found to be fast, and the number of meters found to be slow.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-01-17. Deposits and guarantees.**

1. Each gas utility may require each applicant for service to make a deposit not to exceed one and one-half times the estimated amount of one month's average bill. A receipt showing the amount of the deposit, the date the deposit was made, and the depositor's name shall be issued to each depositor. Each utility shall keep a deposit record showing the same information as shown on the depositor's receipt and shall provide a method of repayment in case the depositor's receipt has become lost or destroyed.
2. The utility shall pay interest on such deposit at the rate paid by the Bank of North Dakota on a six-month certificate of deposit. Such rate will be determined as of the first business day of each year, on a six-month certificate of deposit with the smallest deposit required. The interest may be paid to the depositor, or may be deducted from the depositor's indebtedness to the utility for gas service. The payment or deduction for interest must be made during each calendar year or whenever a deposit is refunded or service discontinued.
3. The utility may accept in lieu of a cash deposit a contract signed by a guarantor, satisfactory to the utility, whereby the payment of a specified sum not to exceed the required cash deposit is guaranteed. The term of such contract shall be indeterminate, but it shall automatically terminate when the customer gives notice of service discontinuance to the utility or a change in location covered by the guarantee agreement or thirty days after written request for termination is made to the utility by the guarantor. However, no agreement shall be terminated without the customer having made satisfactory settlement for any balance



which the customer owes the utility. Upon termination of a guarantee contract a new contract or a cash deposit may be required by the utility.

**History:** Amended effective April 1, 1985.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-18. Discontinuance of service.** Superseded by section 69-09-01-18.1.

**69-09-01-18.1. Discontinuance of gas service.**

1. A utility may disconnect service if the customer is delinquent in payment for services rendered. However, no utility shall discontinue service to a customer for failure to pay for such service until the utility shall first have given the customer notice of its intention to discontinue such service on account of delinquency. The notice shall:
  - a. Be sent by first-class mail addressed to the customer at the place where service is rendered, except that in the case of residential customers sixty-five years of age or older, or for handicapped customers, personal notice by delivery is required. A copy of each notice must also be mailed to the nearest social service office and to any other appropriate financial assistance agency, providing that prior approval has been given by the customer pursuant to subsection 2.
  - b. Show the amount of the delinquency.
  - c. Include the telephone number of the public service commission.
  - d. Advise the customer of the customer's rights and remedies, including the right of the customer to stay termination for up to thirty days if the customer advises the utility within the ten-day notice period that dangerous health conditions exist or that the customer is sixty-five years of age or older or that the customer is handicapped. In addition, the notice shall advise the customer of the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts and of the opportunity to enter into equal monthly payment plans for future service.
  - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill.

If the customer elects to enter into a deferred installment agreement for delinquent accounts, service may not be terminated; however, the utility

may discontinue service without further notice if the customer fails to pay the delinquent account on or before the date specified in the notice, or in accordance with the deferred installment agreement. The customer shall have the privilege of paying the delinquent account at any time prior to the actual disconnection of service, and the person directed by the utility to make the disconnection shall be deemed authorized and shall accept payment of the delinquent account if tendered to the person by the customer before actual disconnection of service is made.

2. It shall be the responsibility of all residential customers sixty-five years of age or older, handicapped, or having an emergency medical problem in the household, including life-sustaining appliances, such as kidney dialysis, to notify the utility of such status. To assist in such notification, all utilities shall annually include a preaddressed postage-paid postcard in the monthly billing mailed to all residential customers during the billing period ending October first. Such notice shall also be provided to all new customers in that service area when they are first provided service by the utility.

The postcard shall include the following questions:

	YES	NO
1. Is any member of your household 65 years of age or older, or handicapped?	___	___
2. Do you have any emergency medical problem in your household?	___	___
3. Do you desire that the area social service office or other appropriate financial assistance agency be notified in the event of a proposed disconnect?	___	___
4. Do you desire that some other third party be contacted in the event of a disconnect? If so, name and address of person _____	___	___
5. If you are having difficulty paying your utility bill, please contact our local service representative or business office so that we can work with you on your problem. Utility Telephone Number _____ Office Address _____  Date _____ Name _____ Address _____ Signature _____		

3. Service shall not be disconnected under this section on weekends, Fridays, state holidays, the day before a state holiday, or after twelve noon on any day. A report describing the total number of

actual disconnects, date and time, type of customer, and amount of delinquency for each disconnected customer shall be filed monthly with the commission within ten days after the last day of each month.

4. Whenever service has been disconnected for nonpayment of a bill, before reconnection is made the customer shall pay the reconnection fee established in the utility's rate schedules; make a deposit pursuant to section 69-09-02-04 if all or a part of the previous deposit was used in settlement of the delinquent bill; and make a satisfactory settlement for the delinquent bill and for service rendered between the last meter reading date and the date service was disconnected.
5. In the event the customer disputes the amount of a bill for service, the customer may, to prevent disconnection for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility shall not disconnect service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
6. A utility may not disconnect service to a customer for failure of the customer to pay for merchandise purchased from the utility; to pay for a different class of service furnished by the utility; to pay for service rendered to a previous occupant of the premises; or to pay the bill of another customer as guarantor thereof.
7. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and operation of utilization equipment, or for use of equipment which interferes with, or adversely affects, the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
8. A utility may discontinue service to a customer upon ten days' written notice if the meter or other equipment installed by the utility has been tampered with, or if there has been a diversion of service, or if the customer is utilizing gas before the energy has passed through a meter installed by the utility.
9. When a customer who has tenants is including the cost of utility services in the rent charged and the utility bill becomes delinquent, the utility before disconnecting service must also notify the tenants in writing at least ten days prior to the proposed termination date. The utility must allow each tenant to apply to become the customer of the utility in the tenant's own name, to have the service to the rental

facility continued or resumed, and to pay the pro rata share of future bills. Such tenant-customer shall be subject to all the provisions of this chapter.

10. A utility may not discontinue service to a customer for nonpayment of a deposit.

**History:** Effective October 1, 1980; amended effective May 1, 1996; July 1, 1997; April 1, 2001; January 1, 2002.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-01-19. Extensions of service.**

1. The utility shall make all extensions to its mains and services where the investment is justified by the anticipated revenue to be received.
2. In the event the utility does not believe that the extension is justified, the commission shall, when so requested by one or more prospective customers desiring such extension and upon proper hearing, determine whether or not such extension should be made, and shall determine the respective amounts that the prospective customer or customers and the utility shall pay.
3. When so requested by a prospective customer engaged in the operation of a licensed trailer court for month-to-month parking of mobile homes, the utility shall make extension to its mains and services, subject to the provisions of subsections 1 and 2, to provide natural gas service through a master meter installed in a location within the confines of the mobile trailer court. The trailer court operator shall have service facilities to individual trailer parking locations which the operator shall own and maintain constructed by competent and qualified persons, and shall arrange for inspection by and approval from a responsible inspector to assure that the service facilities from the meter location to the mobile home locations and gas service facilities and appliances to and within mobile homes to be served comply with piping and appliance ordinances or requirements of applicable rules and regulations of any authority vested with jurisdiction of the subject matter.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-01-20. Information to customers.** A utility shall:

1. Keep copies of its rate schedules, rules, and regulations on file in every office where payments are received.

2. Send a statement to each customer containing a clear and concise explanation of the existing rate schedule, and any rate schedule applied for, that is applicable to that customer.
  - a. The statement shall be sent:
    - (1) Not later than sixty days after the date of commencement of service to the customer;
    - (2) Not later than thirty days after filing an increase in a rate schedule applicable to such customer. This statement must include for each of the major classes of customers for which there is a separate rate, a summary analysis which shows the economic impact of the proposed rate change and rate design changes, if any, for an average customer within the class based upon an average annual consumption and a statement that the rates are proposed only and, if the rates are suspended by the commission, the new rates will not be effective until commission action has been taken; and
    - (3) As required by the commission under 69-02-04-01.
  - b. The statement must include notice to customers regarding the availability and location of the information required in subsection 1.
3. Include with each customer bill, at least once each year:
  - a. A clear and concise summary of the existing rate schedules applicable to each of the major classes of customers for which there is a separate rate;
  - b. An identification of any classes whose rates are not summarized; and
  - c. A notice calling the attention of the customer to the availability of alternative rate schedules for the customer's particular class of service and that, upon request, the utility will assist the customer in determining the billing for load conditions specified by the customer under various rate schedules. The customer, after selecting a particular rate schedule, shall take service under the rate schedule for a period of not less than twelve months, unless the rates are changed or there is a material change in the customer's load.
4. Send each customer upon request, without charge, a clear and concise statement of the actual consumption and cost of energy by the customer for each billing period during the prior year, unless the consumption and cost data is not reasonably ascertainable by the utility.

5. Provide, upon request, information and assistance to the extent reasonably possible so that customers may secure safe and efficient service. A utility must inform each customer of any change made or proposed to be made in any condition of service that would affect the efficiency of the service or the operation of appliances which may be in use by the customer.
6. File with the commission a sample copy of the statement format required by subsections 2 and 4 and a copy of the summary and notice required by subsection 3. Any format changes in statements or notices under this section must be filed immediately with the commission.

**History:** Amended effective April 1, 2001.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-21. Billing basis.**

1. Bills for service will be rendered monthly unless service rendered covers a period less than a calendar month, or the customer requests and the utility consents to a more frequent billing. The term "month" for billing purposes will mean the period between any two consecutive readings of the meter by the utility, such readings to be taken as nearly as practicable every thirty days. No customer will be billed more than twelve times a year unless the rate applicable to the particular case specifically provides for exceptions to the monthly basis, or unless a more frequent billing has been agreed upon as specified in this subsection. This will not prohibit the utility from accepting periodic payments during the month.
2. The difference between the gross and net bills constitutes a discount for prompt payment. All customers will be billed each month at gross rates except where schedules provide otherwise. Discounts will be applicable in accordance with the terms of the rate schedule.
3. When one or more consecutive meter readings are missed, the utility may bill the customer on an estimated consumption and the difference adjusted when the meter is again read. The basis for this estimate shall be the normal consumption for corresponding periods in the preceding year or normal consumptions of preceding months. At the first reading subsequent to the nonreading the bill will be computed by multiplying blocks of the rate by the number of months for which the meter reading covers, then compute the bill in accordance with the applicable rate adjusted in accordance with the foregoing provisions. Any minimum bills paid in the period for which the meter reading covers shall be credited to the total amount of the bill.
4. When a meter is overread by an amount that exceeds the following month's consumption, the correct consumption shall be ascertained for

the two months, and the bill computed according to the provisions of subsection 3.

5. The utility shall provide each customer with proper metering equipment to indicate the correct reading to constitute a basis for monthly charges for service in accordance with the applicable rate schedule.
6. A customer may not have the customer's meter readings of more than one meter cumulative except where the utility has for its own convenience installed more than one meter for one class of service, and in such case the meter readings will be cumulated when billed.
7. Each customer will be billed separately on the customer's individual meter reading at the rate applicable to the particular class of service.
8. A customer is defined to include any person, firm, or corporation receiving service of one or more classes, and metered by one or more meters.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-22. Meter readings on bills.** Bills rendered periodically to consumers for metered service shall show the readings of the meter at the beginning and end of the period for which the bills are rendered and the dates of the meter readings. On all bills which are computed on any other basis than a definite charge per unit of service, the other factors used in computing the bill shall be clearly stated so that the amount may be readily computed from the information appearing on the bill.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-23. Adjustment of bills for meter error.** If on testing of any service meter, either by the utility or by the commission, such meter shall be found to have a percentage of error greater than that allowed by the commission, the following provisions for the adjustment of bills shall be observed:

1. **Fast meters.** When a meter is found to be fast in excess of two percent in tests made at the request of the consumer, the utility shall refund to the customer an amount equal to the excess charged for the gas incorrectly metered. The period over which the correction is to be made shall be one-half of the time elapsed since the last previous test. The period shall not exceed six months. No part of a minimum service charge shall be refunded.
2. **Slow meters.** When a meter is found to be slow in excess of two percent in tests made at the request of the consumer, the utility may make a charge to the consumer for the gas incorrectly metered. The

period over which the correction is to be made shall be one-half of the time elapsed since the last previous test. The period shall not exceed six months. If a meter is found not to register for any period, the utility shall estimate the charge for the gas under similar conditions, preceding or subsequent thereto, or overused by averaging the amounts registered over similar and corresponding periods in previous years. Such action shall be taken only in cases of substantial importance where the utility is not at fault allowing the incorrect meter to be in service.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-24. Refunds.** No application for refunds of any payments to a utility claimed to be in excess of the rules, regulations, schedules, rates, or tariffs shall be made to the commission after the expiration of six years from the date of payment.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-25. Resale.** Gas service furnished on standard rates or contracts furnished by a public utility shall not be resold or caused to be resold by any customer unless the customer is engaged in the business of distributing gas and has a contract to this effect approved by the commission, and has a certificate of public convenience and necessity granted by the commission.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-26. Filing of rates.**

1. Each utility shall file with the commission its scheduled rates, rules, regulations, and practices in accordance with the statutory requirements.
2. Each rate filing shall stipulate the classification of service and application thereto, date effective, and the particular rate to be superseded. The filing shall be accompanied by a statement showing the reasons for making the filing and the estimated amount of annual revenue affected, based upon the previous year's business.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 49-02-03

**69-09-01-27. Rate applications.** Where more than one schedule of rates has been approved by the commission for the same class of service, it shall be the duty of the utility to advise the customer at the beginning of service of the rates and schedules which are available and typical bills for representative consumptions. Upon application by the customer, the utility shall make comparisons on the basis



of past billings of the two rates to show which rate is the most advantageous to the customer. The customer upon selecting a rate after a trial period shall be required to remain on the selected rate for a period of not less than twelve months or unless that rate is sooner superseded.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 49-02-03

**69-09-01-28. Filing of additional rules.** Each utility shall have the right to file additional rules and regulations or terms and conditions of service applicable to the service given by the utility. The additional rules and regulations or terms and conditions are to be subject to approval by the commission in the manner provided by law.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 49-02-03

**69-09-01-29. Advertising by gas utilities.**

1. Definitions. For purposes of this section:

- a. "Advertising" means the commercial use, by a gas utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to the utility's gas customers.
- b. "Institutional advertising" means advertising which has as its primary objective the enhancement or preservation of the corporate image of the utility and to present it in a favorable light to the general public and investors.
- c. "Political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.
- d. "Promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of a gas utility or the selection or installation of any appliance or equipment designed to use the utility's service.
- e. "Institutional advertising", "political advertising", and "promotional advertising" do not include:
  - (1) Advertising which informs gas customers how they can conserve energy or can reduce peak demand for gas energy.
  - (2) Advertising required by law or regulations.

- (3) Advertising relating to service interruptions, safety measures, or emergency conditions.
  - (4) Advertising concerning employment opportunities with a gas utility.
  - (5) Advertising which promotes the conservation of limited resources, the use of more plentiful resources, or the use of energy efficient appliances, equipment, or services.
  - (6) Any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.
  - (7) Advertising determined by the commission to benefit customers and serve the public interest.
2. Any expenditure by the utility for institutional, promotional, or political advertising shall be excluded from operating expenses in the cost of service determination for ratemaking purposes.
3. Advertising expenditures which are reasonable in amount and which are not excluded by the provisions of this section may be included as operating expenses in the cost of service determination for ratemaking purposes.

**History:** Effective October 1, 1980.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-01-30. Automatic adjustment clauses.**

1. As used in this section, the term "automatic adjustment clause" means a tariff provision that provides for increases or decreases, or both, without prior hearing, in rates reflecting increases or decreases, or both, in gas supply costs incurred by a natural gas utility.
2. An automatic adjustment clause that does not conform to principles set out in this section may not be in the public interest. This section contemplates that the filing of a proposed tariff which includes a nonconforming automatic adjustment clause may result in suspension of all or part of the tariff.
3. The automatic adjustment clause must be in a form that provides for periodic adjustments per unit of sales equal to the difference between gas supply costs per unit of sales included in base rate schedules and gas supply unit of sales projected for the adjustment period.
4. Gas supply costs included under the adjustment clause must be set forth tariff approved by the commission.

5. The utility shall maintain a balancing account in which the difference between the actual gas supply cost and the amount collected through the adjustment clause is recorded. The balancing account must accrue interest monthly at a rate equal to the three-month treasury bill rate as published monthly by the federal reserve board.
6. An automatic adjustment clause must include a balancing surcharge, which must be recalculated at least annually. The amount of the surcharge must equal the amount in the balancing account at the time of the proposed change that results from the recalculation divided by projected weather normalized sales volumes for the following twelve months.
7. Notice of change in the adjustment must be filed with the commission prior to billing. The notice must include:
  - a. Workpapers calculating the adjustment;
  - b. Copies of applicable pipeline tariffs and an explanation of regulatory approval status;
  - c. A history of the balancing account since the last surcharge update; and
  - d. To the extent possible, an explanation of market and other factors causing the change.
8. If a current price is in litigation or otherwise being collected subject to refund the utility shall so advise the commission, inform the commission of the final outcome, and record the outcome in the balancing account.
9. If a particular circumstance prevents the use of a standard provided in this section, or its use would result in an undue burden, the commission may permit deviation from the standard.
10. The commission may review an automatic adjustment clause at any time to ensure the maximum economies in those operations and purchases which affect the rates to which the clause applies. The commission's review may include an evidentiary hearing. In making its review, the commission may examine and, if appropriate, cause to be audited, the practices of a utility relating to costs subject to an automatic adjustment clause, and may require any filings and reports that may be necessary to carry out the review, including volumes, prices, and contracts for each supply source and a disclosure of any affiliation between the utility and the seller of natural gas or other items to the utility.

11. Each utility shall cause an independent audit of its automatic adjustment clause to be performed annually. A copy of the auditor's report must be filed annually with the commission.

**History:** Effective February 1, 1995; amended effective July 1, 1997.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11